

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

DANIELLE WASHINGTON, Personal)
Representative of the ESTATE OF CALVIN)
WITHERSPOON, JR.) CASE NO. 3:21-cv-00148-JFA
)
Plaintiffs,)
) PETITION FOR APPROVAL OF
v.) WRONGFUL DEATH SETTLEMENT
)
HOUSING AUTHORITY OF THE CITY OF)
COLUMBIA aka COLUMBIA HOUSING)
AUTHORITY aka COLUMBIA HOUSING,)
)
Defendant.)

Plaintiff would submit the following:

1. Your Plaintiff is the Personal Representative of the Estate of Calvin Witherspoon, Jr., having been so appointed by the Probate Court for Richland County, South Carolina, on October 16, 2019.
2. All persons required to be notified of these proceedings have been so notified and their acknowledgment of notice of the hearing and consent to the terms of the settlement are attached.
3. On or about January 16, 2019, Calvin Witherspoon, Jr., a resident of the Columbia Housing Authority, was a victim of carbon monoxide poisoning and subsequently died at his residence at Allen Benedict Court Unit J-3 as a result of injuries sustained.
4. Your Plaintiff has a cause of action under the survival statute, § 15-5-90, of the Code of Laws of South Carolina, 1976, as amended, and a cause of action for wrongful death under § 15-51-10, Code of Laws of South Carolina, 1976, as amended.
5. Insurance Reserve Fund/State Fiscal Accountability Authority (hereinafter “Insurance Reserve Fund”) provided insurance coverage to defendant Columbia Housing Authority with

liability policy limits of \$1,000,000 of which Six Hundred Thousand (\$600,000) Dollars was previously paid to a number of tenants who brought claims of injury and/or wrongful death pursuant to the South Carolina Tort Claims Act §15-78-10 *et. seq.*

6. Thereafter, Plaintiff brought the within action alleging damages and injuries pursuant to 42 U.S.C. §1983.

7. The litigation of this matter set forth a novel theory of liability, and was conducted and contested over 4 years, in both State and this Court, including an appeal to the 4th Circuit Court of Appeals, that included full briefing and oral argument.

8. Following a successful appeal, mediation of these claims occurred and a tentative settlement was reached whereby the total sum of Two Million and No/100th (\$2,000,000.00) Dollars is to be paid as follows:

A. Four Hundred Thousand and No/100th (\$400,000.00) Dollars on behalf of the Insurance Reserve Fund/State Fiscal Accountability Authority, and

B. One Million Six Hundred Thousand and No/100th (\$1,600,000.00) Dollars on behalf of the Housing Authority of the City of Columbia, S.C.

to the Plaintiff for the benefit of the Estate of Calvin Witherspoon, Jr. and the statutory beneficiaries of the Decedent, on account of the claims of injury and wrongful death of Calvin Witherspoon, Jr. in exchange for a full release of all liability as agreed upon by all parties and as is set forth in the attached *Exhibit B - Release*.

9. The allocation and disbursement of the settlement proceeds, attorney fees, and expenses incurred by the Estate will be paid out as more fully shown on the disbursement sheet attached hereto as *Exhibit A – Disbursement & Allocation of Proceeds*.

10. The Plaintiff Personal Representative, as the client, has sacrificed significant time in the prosecution of this litigation and as such has performed services for the benefit of all the statutory beneficiaries and is entitled to the equivalent customary fee for estate administration as set forth in S.C. Code of Laws §§ 62-3-719(a) and 62-3-715(20).

11. Plaintiff has a written contingency fee contract with The Law Offices of Richard A. Hricik, PA and Pangia Law Group entitling each firm to attorney fees, and, further, to receive reimbursement for any and all costs advanced. Counsel for Plaintiff diligently represented Plaintiff and expended significant time, energy, and resources over the course of 4 years of litigation in prosecuting this matter. Richard A. Hricik and Amanda Dure are members in good standing with the South Carolina Bar, USDC of South Carolina and the 4th Circuit Court of Appeals. Plaintiff is satisfied with the representation of both firms and their counsel and requests that the Court approve the payment to them of the fees and costs set out in the Disbursement & Allocation of Proceeds attached to the Order as *Exhibit A*.

12. The statutory beneficiaries of the Decedent are:

Josephine Kinlaw-Witherspoon, Surviving spouse
Danielle Washington, Surviving daughter
Sally Witherspoon, Surviving daughter
Rachel Witherspoon-Bryant, Surviving daughter
Henry Vantreal McCray, Surviving son

13. The statutory beneficiaries have all reviewed the terms of the settlement and the petitions, have notice of the hearing and all consent to the terms of the settlement. Their consents to the settlement are set forth in the attached *Exhibits C1-C4 – Consents of Beneficiary*.

14. The Plaintiff further asserts the decedent incurred no medical expenses given the nature of his death and as such there are no claims of liens by any health insurer, Medicaid and/or Medicare.

15. Your Plaintiff agrees that the Estate of Calvin Witherspoon, Jr. shall be responsible, to the extent they exist, for satisfying any valid and existing liens out of the proceeds of this settlement, and that neither defendant nor Insurance Reserve Fund/State Fiscal Accountability Authority will be responsible for same.

16. Your Plaintiff has carefully considered the facts and circumstances herein. Liability on behalf of the defendant is denied. Your Plaintiff is aware of the uncertainties of litigation and believes that the offer, under the circumstances, is fair and equitable and should be accepted without the additional delay and expense of further litigation. Therefore, your Plaintiff prays that this Court approve the proposed settlement and empower your plaintiff as Personal Representative of the Estate of Calvin Witherspoon, Jr. and on behalf of the statutory beneficiaries, to execute the Limited Release set forth in Exhibit B and thereafter distribute the proceeds as set forth in Exhibit A.

17. All parties to this agreement recognize that this settlement resolves all claims the plaintiff has or may have under either South Carolina and/or federal law in regard to the death of Calvin Witherspoon, Jr.

[Intentionally Blank]

WHEREFORE, Plaintiff prays that the Court inquire into these matters and (1) approve the proposed settlement as provided by S.C. Code § 15-51-41 and 15-51-42, et seq.; and (2) authorize the Plaintiff to execute and deliver the Release and any other documents necessary to effectuate fully the settlement set forth herein.



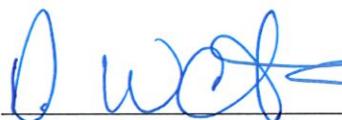
Danielle Washington, Personal Representative For
The Estate Of Calvin Witherspoon, Jr.

Columbia, South Carolina

October 13, 2023

VERIFICATION

By her signature below, Danielle Washington, Personal Representative For The Estate Of Calvin Witherspoon, Jr, states she has read and reviewed the Petition and believes the contents and statements contained therein are true to the best of her knowledge, except for those matters stated, if any, which are alleged on information and belief and are in the best interest of all beneficiaries per S.C. Code § 15-51-42(B).



Danielle Washington, Personal Representative For
The Estate of Calvin Witherspoon, Jr.

SWORN before me this 13th day of October, 2023.

BELLINGER BOYLSTON
Notary Public for South Carolina
My Commission expires: 04/23/2031



CERTIFICATE OF COUNSEL

I, the undersigned attorney for Danielle Washington, Personal Representative For The Estate Of Calvin Witherspoon, Jr, hereby certify that I have carefully reviewed and considered the proposed settlement in this matter and I have discussed the proposed settlement with Danielle Washington, Personal Representative For The Estate Of Calvin Witherspoon, Jr. and I believe that the settlement is fair, reasonable, and in the best interest of the statutory beneficiaries and the Estate Of Calvin Witherspoon, Jr. per S.C. Code § 15-51-42(B).

/s/Richard A. Hrick
Richard A. Hricik, Esquire
Law Offices of Richard A. Hricik, PA
941 Houston Northcutt Suite 204
Mt. Pleasant, S.C. 29464
843-849-0136

Charleston, South Carolina

October 16, 2023